

Finding Your Way

Guides for Fathers in Child Protection Cases

Guide 1 Your Rights and Responsibilities

About the guides

This is one in a series of guides that give you tips to help you and your child throughout the court case. The guides include:

Guide 1: Your rights and responsibilities

Guide 2: How to work with your lawyer

Guide 3: Your role in court

3.1: The court process

3.2: Who will be in court

3.3: Common court terms

Guide 4: Your role outside court

Guide 5: When you owe child support

Guide 6: If you are or have been in prison

Keep these guides in a safe place. Review them before you attend a court hearing or meeting. Check the guides to see which one(s) will help you as you prepare for that court date or meeting.

This guide provides general information, not legal advice. If you have case-specific or legal questions, ask your lawyer or caseworker.



Your Responsibilities

In the end, this is not a battle between you and the judge, caseworker, or child’s mother. It is about your child’s future and well-being. The following charts help you stay focused on your child and your duties in the case.

YOUR DUTIES OUTSIDE COURT

Contact your lawyer often.

Why Your lawyer can help you understand the court process and will advocate for what you want.

What to do

- Let your lawyer know how things are going with you and your child. This will help him or her stand up for your rights and advocate for you at each court hearing and meeting.
- If your phone number or address changes, let your lawyer know immediately.
- Always leave the number where you can be reached so your lawyer can contact you quickly.
- If your lawyer does not respond, call again or send a letter.

Keep in touch with the caseworker.

Why So you know what is expected of you.

What to do

- If your phone number or address changes, tell the caseworker immediately.
- If you have issues to discuss or are unclear about what the caseworker expects, always call. Don’t assume he or she will contact you if there is a problem.
- By calling and being involved, you show the caseworker you are committed to your child and the case.
- Call again or write if you get no response and leave a message and/or follow up with an e-mail as evidence of your contact.
- If you still do not hear back, contact the caseworker’s supervisor.

Complete your case plan tasks.

Why The caseworker may give you a list of tasks the agency wants you to do to gain custody or stay involved in your child’s life. This list is part of your case plan and includes services the agency thinks you need. The agency should develop this plan with you and your lawyer.

What to do

- Read the plan with your lawyer and make sure you understand it and can do everything it says. If not, ask that it be changed.
- Work with your attorney or caseworker to make sure the agency pays for the services you need, or helps you find free or low-cost services.
- Once the case plan is final, you must complete all tasks required of you. If you don’t, you might not be allowed to see or take custody of your child.

YOUR RESPONSIBILITIES TO THE COURT

Attend all court hearings and meetings.

Why It ensures you have a say when important decisions are made about you and your child’s future. Plus, the judge and caseworker will see you are interested in your child.

What to do

- If you can’t go to a meeting or court hearing, always tell your lawyer or caseworker in advance.
- Ask if you can participate by phone or if the hearing or meeting can be rescheduled.

Obey all court orders.

Why The judge and caseworker expect you to follow the court’s orders. If you don’t, you could lose the chance to visit or reunify with your child.

What to do

- If the court orders you to do something that does not make sense in your situation, or you cannot because of money or transportation barriers, tell your lawyer or the caseworker immediately!
- Don’t let the court give an order without finding out if you can do what the order says. Sharing your concerns may change the judge’s mind.
- Make your argument before the court makes its final decision. Once the judge decides, you must follow his or her orders or the judge could stop you from seeing your child.

YOUR RESPONSIBILITIES TO YOUR CHILD

Contact and visit your child often.

Why Your child needs your support during the court process. If the court allows, call and/or visit your child as often as he or she is available. Your child may be confused and scared about what has happened. If in foster care, your child may feel disconnected from family and familiar things. Regular contact can help get your child through this difficult time.

What to do

- If it makes you more comfortable during visits, ask the caseworker if your wife or significant other, parents, or relatives can join you on visits.
- Be consistent with your visits, always be on time, and don’t miss any.
- If something comes up, tell the child and caseworker in advance that you have to reschedule. It can upset the child if you don’t show up. If you don’t visit or miss some visits, the court and agency may believe you aren’t interested in your child’s life.

Consider requesting custody of your child.

Why Even if you haven’t been your child’s primary caretaker, you have a right to ask for custody of your child. If you were not the reason your child entered the court system, some courts will let you take custody of your child quickly.

What to do

- If you are unsure if you want custody, or what it would involve, speak with your lawyer, caseworker, and family about it.

Ask relatives how they can support your child.

Why Parents, sisters, brothers, aunts, uncles and other relatives may be interested in visiting, sending gifts, calling the child, hosting the child during holidays, or taking custody of the child if you cannot. Being with family is usually better than being in a stranger’s foster home.

What to do

- Ask family members how they can help.
- Share information about relatives with your lawyer and caseworker.

Be the best dad you can be.

Why Your child needs you now, maybe more than ever.

What to do

- Keep in touch with your child’s caseworker.
- See your child often and participate in all court-ordered services.
- Services may require that you be drug free, find housing, or get a job. Your caseworker and lawyer should help you achieve these goals.

Your Rights and Responsibilities

You’re a dad who does not live with your child. You learn your child is involved in a court case because of suspected abuse or neglect. This guide helps you understand your rights and responsibilities. Even if you weren’t your child’s caretaker, or don’t see your child often, there are many things you and your relatives can do to ensure your child is safe and returns to live with family quickly.

Why this is important

Your child’s court case will move fast. Important decisions will be made early about:

- where your child will live,
- what services your child needs, and
- who your child gets to visit or contact.

You must know how to help your child through this process and protect your rights to your child.

Proving you are the father

Knowing you are the child’s father does not mean the court will recognize you as the father and automatically give you these rights. You may have to prove you are the child’s “legal” father. How you do this depends on your state’s law. When you first learn about your child’s case, it is your responsibility to find out about your state’s requirements to prove you are the legal father. To prove you are the father, you may have to sign a document under oath affirming you are the father (called an affidavit), and/or take a paternity test.



Your Rights

As a parent, you have rights in child welfare court cases. If you are the child’s legal father, you have the same rights as your child’s mother, including the right to:

- **Notice**—advance notice of all court hearings.
- **Contest allegations**—a chance to admit or deny any allegations of abuse or neglect that are made against you.
- **Court participation**—an opportunity to attend, participate, and be heard in all court hearings. Assistance should be available so your participation can be meaningful, such as an interpreter if you do not understand English or are hearing-impaired.
- **Representation**—a lawyer to protect your legal interests. (Note: In some states you may have to hire your own lawyer and in others you may be able to get one for free if you don’t have a lot of money. If the government seeks to terminate your rights to your child, most states will give you a lawyer for free if you can’t afford one.)
- **A fair trial**—a few states offer jury trials, while in others the judge makes final decisions. You have a right to a judge who is not biased.
- **A relationship with your child**—a right to ongoing contact with your child unless the court or agency finds it is not in your child’s best interest or may harm him or her. You also have the right to ask for custody of your child.

Your state may give you more rights. Check with your attorney or caseworker to see what other rights you may have.

Exercise your rights

If you are given these rights, use them to your advantage. For example:

When you are...	Be sure to...
notified of future court hearings	➤ prepare for every hearing in advance
appointed a lawyer	➤ contact your lawyer regularly and be sure your lawyer tells the court and parties what you want
permitted to see your child	➤ visit your child as much as you can
unable to attend or be on time for a meeting or hearing	➤ contact your lawyer or caseworker as soon as possible to let them know

Protect your rights

Sometimes you have to fight for your rights.

GETTING LEGAL HELP

If you have a lawyer

- Ask your lawyer to explain how you can protect your rights.

If you don’t have a lawyer

- Ask the court for a lawyer.
- Contact your local legal aid office to ask about hiring a low-cost or free lawyer depending on your income.
- Find out if the court has a help center that can provide information and advice.
- Ask if the agency or court has a handbook for parents or other information about child welfare law in your state.
- Look online for free information on your state’s child welfare laws and parents’ rights.

PROTECTING YOUR RIGHTS

If you think your rights are not being protected

- Tell the judge at the next court hearing and request an order requiring the agency or other parties to protect them.

If you think the judge is not being neutral because you know him or her from a previous association

- Contact the administrative offices of the court to find out how or if you can switch judges.